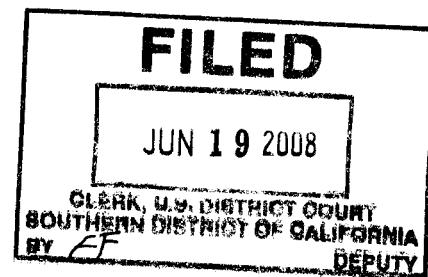


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13
 14 UNITED STATES DISTRICT COURT
 15 SOUTHERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,) Magistrate Case No. 08MJ8453
 17 Plaintiff,) 08CR2075-W
 18 v.)
 19 MIGUEL RODRIGUEZ-RODRIGUEZ,)
 20 Defendant.)
 21 _____) **STIPULATION OF FACT AND JOINT
 22 MOTION FOR RELEASE OF
 23 MATERIAL WITNESS(ES) AND
 24 ORDER THEREON**
 25 _____)
 26 **(Pre-Indictment Fast-Track Program)**

27 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 28 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Carla J.
 Bressler, Assistant United States Attorney, and defendant MIGUEL RODRIGUEZ-RODRIGUEZ,
 by and through and with the advice and consent of Mary Franklin, counsel for defendant, that:

29 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 30 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 31 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 32 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 33 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)
 34 and (v)(II).

35 //

36 CJB:kmm:5/27/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
 2 provide the signed, original plea agreement to the Government not later than five business days
 3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
 5 before **June 20, 2008**.

6 4. The material witnesses, Jose Luis Cortez-Perez and **P.R.R.**
 7 [REDACTED]

8 a. Are aliens with no lawful right to enter or remain in the United States;
 9 b. Entered or attempted to enter the United States illegally on or about May 20,
 10 2008;

11 c. Were found in a vehicle driven by defendant in or near Calexico, California
 12 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
 13 right to enter or remain in the United States;

14 d. Were paying or having others pay on their behalf an unknown amount to
 15 \$2,300 to others to be brought into the United States illegally and/or transported illegally to their
 16 destination therein; and,

17 e. May be released and remanded immediately to the Department of Homeland
 18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
 20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
 21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
 22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
 24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
 26 regarding any statements made by the material witness(es) provided in discovery, and such testimony
 27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
 4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
 5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has
 7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
 8 further that defendant has discussed the terms of this stipulation and joint motion with defense
 9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 11 immediate release and remand of the above-named material witness(es) to the Department of
 12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

14 Respectfully submitted,

15 KAREN P. HEWITT
 16 United States Attorney

17 Dated: 6/19/08.

18 CARLA J. BRESSLER
 Assistant United States Attorney

19 Dated: 6/2/08.

20 MARY FRANKLIN
 21 Defense Counsel for
 MIGUEL RODRIGUEZ-RODRIGUEZ

22 Dated: 6/2/08.

23 MIGUEL RODRIGUEZ-RODRIGUEZ
 24 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,
THE STIPULATION is admitted into evidence, and,
IT IS ORDERED that the above-named material witness(es) be released and remanded
forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 6-19-08


United States Magistrate Judge